

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #19-09

Frelinghuysen Township, Warren County

WHEREAS, Frelinghuysen Township, Warren County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation on December 15, 2008; and

WHEREAS, Frelinghuysen's petition was deemed complete on December 19, 2008; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on January 9, 2009, Frelinghuysen Township published notice of its petition in the Express Times, which is a newspaper of general circulation within the county; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended February 27, 2009; and

WHEREAS, on May 5, 2009, Frelinghuysen submitted a motion requesting a minor revision to its December 30, 2008 adopted Housing Element and Fair Share Plan in accordance with N.J.A.C. 5:96-3.4(b); and

WHEREAS, Frelinghuysen Township served the motion upon the service list maintained by COAH as per N.J.A.C. 5:96-15.2(c)2; and

WHEREAS, during the comment period, COAH received no comments to Frelinghuysen Township's motion for an amendment of a minor revision to its adopted Housing Element and Fair Share Plan; and

WHEREAS, the Township's minor revision to its adopted Housing Element and Fair Share Plan eliminates a proposed municipally sponsored four-bedroom supportive and special

needs home, increases a proposed municipally sponsored 100 percent development from 10 rental units to 12 rental units and requests two additional rental bonuses; and

WHEREAS, Frelinghuysen Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 44 units, consisting of a six-unit rehabilitation share, six-unit prior round obligation and a 32-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan and amendment; and

WHEREAS, the entire land area within the Township is located in Planning Areas (PAs) 4, 4B and 5 on the State Plan Policy Map (SPPM) with 15,278 acres in the Highlands Planning Area; and

WHEREAS, COAH staff conducted a site visit on March 16, 2009; and

WHEREAS, Frelinghuysen Township proposes to address its six-unit rehabilitation share with three rehabilitation credits and submitted an executed agreement, dated March 18, 2009, designating Warren County as the administrative agent to administer Frelinghuysen's rehabilitation program for the remaining three units; and

WHEREAS, the Township proposes to address its six-unit prior round obligation with four credits for four bedrooms and two rental bonuses in one supportive and special needs home; and

WHEREAS, Frelinghuysen proposes to address its 32-unit projected growth share obligation with 15 credits for 15 bedrooms in four supportive and special needs homes, 12 affordable rental units in a proposed municipally sponsored 100 percent development and eight rental bonuses for rental units in the municipally sponsored 100 percent development; and

WHEREAS, the site proposed for municipally sponsored construction is located in the Highlands Planning Area; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Frelinghuysen has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7; and

WHEREAS, the Township has provided the documentation for the municipally sponsored development required pursuant to N.J.A.C. 5:94-6.7(b)1-3, demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule; and

WHEREAS, the Township's mechanism checklist form for the municipally sponsored development includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in December 2015 and as such, supporting documentation is required to be submitted to COAH two years before construction begins in March 2011; and

WHEREAS, upon review of the Township's plan, COAH staff has determined that the Township submitted the necessary documentation for 12 affordable rental units in a proposed municipally sponsored 100 percent development and eight rental bonuses for rental units in the municipally sponsored 100 percent development; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on May 19, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Frelinghuysen Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan

submitted by the Frelinghuysen Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that Frelinghuysen has submitted the necessary documentation for 12 affordable rental units in a municipally sponsored 100 percent development and eight rental bonuses for rental units in the municipally sponsored 100 percent development; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby approves Frelinghuysen's motion for a minor revision to its adopted Housing Element and Fair Share Plan and grants third round substantive certification to Frelinghuysen Township; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Frelinghuysen Township shall adopt all implementing Fair Share Ordinances and the resolution of intent to bond or appropriate funds from general revenue within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if Frelinghuysen Township fails to timely adopt its Fair Share Ordinances and the resolution of intent to bond or appropriate funds from general revenue, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Frelinghuysen shall submit all Fair Share Ordinances and a resolution of intent to bond or appropriate funds from general revenue to COAH upon adoption; and

BE IT FURTHER RESOLVED that Frelinghuysen shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Frelinghuysen's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that credits for built units will be validated and verified during monitoring prior to the first biennial plan evaluation; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Frelinghuysen's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Frelinghuysen and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, or the affordable housing programs and/or affordable units are not in compliance with N.J.A.C. 5:97-4, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Frelinghuysen's substantive certification shall remain in effect until December 15, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Frelinghuysen Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on June 10, 2009

A handwritten signature in cursive script, reading "Renee Reiss". The signature is written in black ink and is positioned above the printed name and title.

Renee Reiss, Secretary
Council on Affordable Housing

***Council on Affordable Housing
Compliance Report
May 19, 2009***

Municipality: Frelinghuysen Township
County: Warren County

COAH Region: 2
Planning Area: 4, 4B, 5
Special Resource Area: Highlands

Housing Element and Fair Share Plan Adopted: November 17, 2008
Petition for 3rd Round Substantive Certification: December 15, 2008
Completeness Determination: December 17, 2008
Date of Publication: January 9, 2009
**Amendment to Housing Element and
Fair Share Plan Adopted:** April 30, 2009
**Motion for Minor Revision to Adopted Housing Element and
Fair Share Plan Submitted:** May 5, 2009

Objections Received: No
Responses/Comments to Motion Received: No

Petition Includes:
VLA: No
GPA: No
Waiver: No

Date of Site Visit: *March 16, 2009*

History of Approvals:

	COAH	JOC	N/A
First Round:			<i>x</i>
Second Round:	<i>3/7/2001</i>		
Extended Certification:			<i>x</i>

Plan Preparer: *John Madden, PP AICP, Maser Consulting PA*

Municipal Housing Liaison: *Brenda Kleber, Township Clerk*

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	6
Prior Round Obligation	6
Projected Growth Share Obligation (Net)	32

ACTUAL GROWTH and GROWTH SHARE through September 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
29	6 units	229	14 units	20 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 6 units				
Credits	Post-April 1, 2000	3		3
Program(s)	Warren County		3	3
Rehabilitation Subtotal				6
NEW CONSTRUCTION:				
Prior Round: 6 units				
Credits	Matheny(1)	4 bedrooms		4
Prior Round Bonus(es)	S/SN ² - Rental	2		2
Prior Round Subtotal				6
Growth Share: 32 units				
Post-1986 Credits	Matheny(1)	2 bedrooms		2
	Matheny(2)	6 bedrooms		6
	Center for Humanistic Change	4 bedrooms		4

¹ This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

² S/SN means Supportive and Special Needs.

	Mentor Network	3 bedrooms		3
Proposed Mechanism(s)	Municipally Sponsored – 100%		12	12
Growth Share Bonus(es)	Rental Bonuses- Municipally Sponsored – rental		8	8
Growth Share Subtotal				35
Surplus				3

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Frelinghuysen's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Frelinghuysen has a rehabilitation share of six units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Frelinghuysen has a prior round obligation of six units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Frelinghuysen has a residential projection of 126 units and a non-residential projection of 104 jobs, which results in an initial projected growth share obligation of 32³ affordable units.

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	6
Prior Round Obligation	6
Projected Growth Share Obligation (Net)	32

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

³ The number of *projected* residential COs (126) is divided by 5 to yield 25.20 units and the number of jobs is divided by 16 to yield 6.50 units. Frelinghuysen's total projected growth share is therefore 32 units (*res* 25.20 + *non-res* 6.50).

Frelinghuysen's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Although the Township's Housing Element and Fair Share Plan did not include a request for rehabilitation credit, on March 13, 2009, COAH staff received correspondence via email requesting three credits for three units in Frelinghuysen Township that have been rehabilitated subsequent to April 1, 2000 at a total cost of \$54,358 or an average cost of \$18,119 per unit. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Rehabilitation Credits

Rehabilitation Program	# Credits
Municipally Sponsored Rehab Program- Small Cities CDBG	1
Warren County Home Improvement Program	2
TOTAL	3

Proposed Rehabilitation Program(s)

Frelinghuysen Rehabilitation Program

The Township's Housing Element and Fair Share Plan include a program to rehabilitate six units. However as noted above the Township is eligible to receive three credits for post April 1, 2000 rehabilitation activity. Frelinghuysen will contract with the Warren County Housing Program to address the remaining three units of its rehabilitation obligation. In the past, Frelinghuysen has rehabilitated units under a Small Cities Community Development Block Grant (CDBG). The Township submitted an agreement, dated March 18, 2009, which designates Warren County as the administrative agent to administer Frelinghuysen's rehabilitation program. The county program meets COAH

criteria. The Warren County Home Improvement Program requires that a major system be corrected, consistent with N.J.A.C. 5:97-6.2 and the units are required to have controls on affordability (perpetual liens).

Proposed Rehabilitation Program(s)

Rehabilitation Program	# Units
Warren County Housing Program	3
TOTAL	3

B. Plan to Address Prior Round Obligation

Prior Round Credits

Frelinghuysen is addressing the Prior Round Obligation with four post-1986 credits and two rental bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Matheny (1) ⁴	1998	Supportive and Special Needs-rental	4 bedrooms	Non-age restricted rental	2	6
SUBTOTALS			4		2	
TOTAL						6

⁴ The credit for this six-bedroom home owned and operated by Matheny, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan. The remaining two bedrooms are eligible to address a portion of the Township's growth share obligation. This home is also eligible to receive two rental bonuses.

Proposed Affordable Housing Mechanisms

Frelinghuysen is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its Prior Round Obligation.

Prior Round Obligation Parameters

Frelinghuysen has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:⁵ 2 Units

Development/Project Name	Type of Affordable Unit	# Units
Matheny (1)	S/SN- rental	4
TOTAL		4

Prior Round Rental Bonus Maximum⁶ : 2 Units

Development/Project Name	Type of Bonus	# Bonuses
Matheny (1)	S/SN non-age-restricted rental	2
TOTAL		2

C. Plan to Address Projected Growth Share

Growth Share Credits

Frelinghuysen is addressing 15 units of the projected Growth Share Obligation with 15 units of credit. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

⁵ Rental Obligation: 25 percent (prior round obligation) or .25(6)= 1.5 rounded to 2. N.J.A.C. 5:97-3.10(b)1

⁶ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/ Bedrooms
Matheny (1) ⁷	1998	SSN	2 bedrooms
Matheny (2) ⁸	1998	SSN	6 bedrooms
Center for Humanistic Change ⁹	1996	SSN	4 bedrooms
Mentor Network	1998	SSN	3 ¹⁰ bedrooms
TOTALS			15

**Motion for Minor Revision to Adopted Housing Element and Fair Share Plan/
Proposed Affordable Housing Mechanisms**

On May 5, 2009, Frelinghuysen submitted a motion requesting a minor revision to its December 30, 2008 adopted Housing Element and Fair Share Plan in accordance with N.J.A.C. 5:96-3.4(b). The Township's minor revision to its adopted Housing Element and Fair Share Plan eliminates a proposed municipally sponsored four-bedroom supportive and special needs home, increases a proposed municipally sponsored 100 percent development from 10 rental units to 12 rental units and requests two additional rental bonuses. Frelinghuysen proposes to address the remaining 17-unit Growth Share Obligation through the following mechanism:

⁷ As aforementioned, this is a six-bedroom home and the Township has requested that four bedrooms be applied to a portion of the Township's total prior round obligation. The Township is requesting that the remaining two bedrooms be used to address a portion of the Township's growth share obligation.

⁸ The credit for this six-bedroom home owned and operated by Matheny, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan.

⁹ The credit for this four-bedroom home owned and operated by the Center of Humanistic Change, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan.

¹⁰ The Township's Housing Element and Fair Share plan indicates that this home has four bedrooms; however the CO indicates that there are only three bedrooms.

Municipally Sponsored 100 Percent Development

Frelinghuysen will utilize a municipally sponsored 100 percent development to address 12 units of its projected Growth Share Obligation. Frelinghuysen Township proposes the construction of 12 affordable rental units and requests eight rental bonuses for rental units that will be created within the Township's third round substantive certification period. The entire site is located in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA). The Township indicates that it owns a vacant 58-acre parcel at 730 Route 94, block 201, lot 31. The Township indicates that the site borders on State Route 94 with more than 2,800 feet of frontage and Mueller Road with over 850 feet of frontage and is surrounded by a variety of lot sizes that range from 1 acre to 89 acres, a school, farm land and vacant land. There is no public water or sewer in the Township. The site does not have public water or sewer. Frelinghuysen proposes to develop the 12-unit project on a septic system. COAH staff conducted a site visit on March 16, 2009.

There are approximately seven acres of wetlands and five acres of steep slopes on the site, with no streams on or adjacent to the site. In addition, there are no known critical environmental or historic or architecturally important sites or known contaminants. As a result, there are approximately 46.9 acres available for the development of the 12 proposed affordable rental units.

The Township intends to subdivide the 58-acre parcel to sell or donate to a residential developer for affordable housing. In addition, the Township proposes to enter into a partnership with a private or nonprofit developer to construct 12 rental units.

Pursuant to N.J.A.C. 5:97-3.2(a)4, Frelinghuysen has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township has provided the documentation required pursuant to N.J.A.C. 5:97-6.7(b)1-3, demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in

December 2015 and as such, supporting documentation is required to be submitted to COAH two years before construction begins, in March 2011.

The Township owns the site and will provide \$161,322 in housing trust fund money to facilitate the construction of the proposed 12 rental units to address a portion of Frelinghuysen's projected growth share. Pursuant to N.J.A.C. 5:97-3.6(a)3, the Township has provided a firm commitment for construction of the units and is thus eligible to receive eight rental bonuses. The Township should note that in the event the units are not constructed in accordance with its implementation schedule, Frelinghuysen may lose the rental bonus pursuant to N.J.A.C. 5:97-3.6(a)3ii.

Frelinghuysen's Housing Element and Fair Share Plan includes a draft resolution to either bond or appropriate funds from general revenue, in the event the Township's housing trust fund does not have sufficient funds to finance the rental units. The draft resolution must be adopted within 45 days of substantive certification. **[12 units and eight rental bonuses]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Municipally Sponsored Construction	Family rentals	12	Rental	8	20
SUBTOTALS		12		8	
TOTAL					20

Growth Share Parameters

Frelinghuysen has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:¹¹ 8 Units

Development/Project Name	Type of Affordable Unit	# Units
Center for Humanistic Change	S/SN- rentals	4
Municipally Sponsored 100 Percent Affordable Development	Family rentals	12
TOTAL		16

Growth Share Family Rental Requirement¹² : 4 Units

Development/Project Name	Type of Affordable Unit	# Units
Municipally Sponsored 100 Percent Affordable Development	Family rentals	12
TOTAL		12

Growth Share Minimum Family Requirement¹³ : 12 Units

Development/Project Name	Type of Affordable Unit	# Units
Municipally Sponsored 100 Percent Affordable Development	Family rentals	12
TOTAL		12

¹¹ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share})$ or $.25(32) = 8$ units. N.J.A.C. 5:97-3.10(b)

¹² Projected Growth Share Family Rental Requirement: $.5(\text{Projected Growth Share Rental Requirement})$ or $.5(8) = 4$ units. N.J.A.C. 5:97-3.3(b).

¹³ Projected Growth Share Family Requirement: $.5(\text{Units within municipality addressing the Growth Share Obligation})$ or $.5(\text{Projected Growth Share Obligation minus bonuses addressing Growth Share Obligation})$ or $.5(32-8) = 12$ units. N.J.A.C. 5:97-3.9.

Very Low Income Minimum Requirement¹⁴ : 3 Units

Development/Project Name	Type of Affordable Unit	# Units
Matheny(2) ¹⁵	Very Low Income rentals	6
TOTAL		6

Bonus Maximum¹⁶: 8 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Municipally Sponsored 100 Percent Affordable Development	Family rentals	8
TOTAL		8

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and December 2008, Frelinghuysen has issued certificates of occupancy for 29 housing units and also for the nonresidential square footage equivalent of 229 jobs, yielding an actual growth share obligation through

¹⁴ Growth Share Very Low Income Requirement: 13% (Growth Share- Bonuses) or .13(32-8)= 3 units. N.J.S.A. 52:27D-329.1.

¹⁵ Provider submitted a letter, dated March 10, 2009, indicating that all resident occupants are very-low income individuals.

¹⁶ Projected Bonus Maximum: .25(Projected Growth Share) or .25(32)= 8 units. N.J.A.C. 3.20

September 30, 2008, of 20 affordable units.¹⁷

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 6 Units

Program Name	# Units
Rehabilitation Credits	3
Warren County Rehabilitation Program	3

PRIOR ROUND SUMMARY

Prior Round Obligation: 6 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Matheny (1) ¹⁸	4 bedrooms	S/SN-rental	2	6
Subtotal		4		2	
TOTAL					6

¹⁷ The number of residential COs (29) is initially divided by 5 to yield 6 units and the number of jobs is divided by 16 to yield 14 units. Frelinghuysen's total estimated actual growth share is therefore 20 units (*res 6 + non-res 14*). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

¹⁸ The credit for this six-bedroom home owned and operated by Matheny, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan. The remaining two bedrooms are eligible to address a portion of the Township's growth share obligation. This home is also eligible to receive two rental bonuses.

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 32 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Matheny(1) ¹⁹	2 bedrooms			2
	Matheny(2) ²⁰	6 bedrooms			6
	Center for Humanistic ²¹ Change	4 bedrooms			4
	Mentor Network	3 bedrooms			3
Subtotal		15			15
Proposed Mechanisms	Municipally Sponsored Construction	12	Rental bonus	8	20
Subtotal		12		8	
TOTAL					35
SURPLUS					3

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Frelinghuysen submitted a draft development fee ordinance for COAH's review and approval with its third round petition. The development fee ordinance was approved on March 20, 2009.

¹⁹ As aforementioned, this is a six-bedroom home and the Township has requested that four be applied to a portion of the Township's total prior round obligation. The Township is requesting that the remaining two units be used to address a portion of the Township's growth share obligation.

²⁰ The credit for this six-bedroom home owned and operated by Matheny, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan.

²¹ The credit for this four-bedroom home owned and operated by the Center of Humanistic Change, was previously included in Frelinghuysen's certified second round Housing Element/Fair Share Plan.

B. Third Round Spending Plan

A third round spending plan was submitted by Frelinghuysen with the Township's third round petition for COAH's review and approval. The spending plan was approved on March 25, 2009.

C. Affordable Housing Ordinance/Affordable Housing Administration

Frelinghuysen has submitted a draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has been amended to include the compliance with barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by Frelinghuysen on March 20, 2006. By resolution dated March 20, 2006, Frelinghuysen designated Brenda Kleber as the municipal housing liaison.

The draft affordable housing ordinance also indicates that the Township Clerk is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within Frelinghuysen. Pursuant to N.J.A.C. 5:97-6.7(e), Frelinghuysen must submit a written operating manual for administering affordable units within the Township in accordance with N.J.A.C. 5:80-26.14(b), prior to marketing the units.

D. Affirmative Marketing Plan

Frelinghuysen has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in Frelinghuysen's 1987-2018 Fair

Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by Frelinghuysen within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. MONITORING

Frelinghuysen must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Frelinghuysen's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Frelinghuysen's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Frelinghuysen and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97- 3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

V. RECOMMENDATION

COAH staff recommends that Frelinghuysen's motion for a minor revision to its adopted Housing Element and Fair Share Plan be approved and that Frelinghuysen be granted third round substantive certification. Frelinghuysen must adopt all necessary implementing ordinances and the resolution of intent to bond or appropriate funds from general revenue within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.

**ADDENDUM TO COAH COMPLIANCE REPORT
FRELINGHUYSEN TOWNSHIP / WARREN COUNTY
REGION #2
June 5, 2009**

Adam M. Gordon, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated February 23, 2009, commenting on Frelinghuysen's Fair Share Plan during the 45-day objection period to the Township's initial petition. FSHC also submitted a comment on April 1, 2009, during the comment period for a COAH Compliance Report that was previously issued on March 19, 2009. Subsequently, on May 5, 2009, Frelinghuysen submitted a motion requesting a minor revision to its December 30, 2008 adopted Housing Element and Fair Share Plan in accordance with N.J.A.C. 5:96-3.4(b). During the comment period, COAH received no comments to Frelinghuysen Township's motion for an amendment of a minor revision to its adopted Housing Element and Fair Share Plan. However, on June 4, 2009, Mr. Gordon resubmitted the previous comments via email and indicated FSHC continues to "rely on these comments in opposing granting substantive certification without requiring family very-low-income units, and do not plan to submit any additional comments". The letters are attached and do not alter the Compliance Report, which was issued on May 19, 2009.

Fair Share Housing Center's Comments

FSHC states that the February 23, 2009 letter is not intended as an objection to the Township's plan pursuant to N.J.A.C. 5:96-4.1. FSHC's claims that Frelinghuysen's plan does not provide a plan for meeting the requirement that half of the very low income requirement is provided with family housing as proscribed in COAH's October 30, 2008 letter. In addition, FSHC indicates that this requirement should not be waived, and that since the requirement to provide family rentals is two, the Township should be required to revise its plan to provide half of its very-low income obligation or two units with family housing, pursuant to a letter that COAH issued to municipalities on October 30, 2008.

COAH's Response

The COAH letter that was issued to municipalities on October 30, 2008, was a guidance letter on the implementation on P.L.2008, c.46, and not an adopted regulation. Therefore,

Frelinghuysen is not required by statute or regulation to conform to the letter. FSHC misinterprets COAH's October 30, 2008 letter. The letter was not intended to advise municipalities that N.J.A.C. 5:97-3.9 applies to the new statutory requirement that municipalities provide 13% of the fair share obligation to very low income households. N.J.A.C. 5:97-3.9 provides that at least 50 percent of the units within the municipality addressing the growth share obligation shall be family units. This regulation applies to the growth share obligation as a whole and was adopted before A500 was enacted. Thus, COAH did not contemplate its application to the recently adopted very low income housing requirement. Likewise, COAH did not intend the letter to act as an interpretation of N.J.A.C. 5:97-3.9. This regulation applies to the entire growth share obligation, not just the very low income units. It was not intended to require that 50 percent of the very low income units be provided through family housing in all cases, although COAH encourages municipalities to do so. COAH did not intend the October 30, 2008 letter as an interpretation of its regulations so as to require municipalities to provide 50 percent of the very low income units as family units.

In addition, based on Frelinghuysen's revised adopted Housing Element and Fair Share Plan, the Township's very low income requirement is three. Also, Frelinghuysen's spending plan anticipates \$305,933 during third round substantive certification, of which, Frelinghuysen will dedicate \$82,780 for affordability assistance, including \$27,593 to render units more affordable to households earning 30 percent or less of median income by region. It should also be noted that pursuant to N.J.A.C. 5:80-26.3(d), 10 percent of the 12 family rental units or two rental units proposed in the 100 Percent Municipally Sponsored Construction development 10 percent of all low- and moderate-income units shall be affordable to households earning no more than 35 percent of median income. Pursuant to N.J.S.A. 52:27D-329.1, COAH will review municipal housing activities, at least once every three years, to ensure that at least 13 percent of the housing units made available for occupancy by low-income and moderate income households will be reserved for occupancy by very-low income households.